

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARKHAM SPEROS,

Plaintiff,

v.

CWALT, INC., et al.,

Defendants.

CASE NO. 16-cv-2018-WQH-WVG

ORDER

HAYES, Judge:

The matters before the Court are the Motion to Dismiss (ECF No. 5), the Motion to Strike (ECF No. 6), the Amended Motion to Dismiss (ECF No. 12) and the Amended Motion to Strike (ECF No. 13) filed by Defendants CWALT, Inc. Alternative Loan Trust 2005-62 Mortgage Pass-Through Certificates, Series 2005-62; The Certificate Holders of the CWALT, Inc.; the Bank of New York Mellon; and CWALT, Inc.

On August 11, 2016, Plaintiff initiated this action by filing the Complaint. (ECF No. 1).

On October 14, 2016, Defendants filed the Motion to Dismiss (ECF No. 5) and the Motion to Strike Portions of Plaintiff's Complaint (ECF No. 6).

On November 2, 2016, Defendants filed the Amended Motion to Dismiss (ECF No. 12) and the Amended Motion to Strike Portions of Plaintiff's Complaint (ECF No. 13).

The Court accepted nunc pro tunc Plaintiff's First Amended Complaint on November 4, 2016. (ECF No. 15).

1 On November 21, 2016, Defendants filed a Motion to Dismiss (ECF No. 18) and
2 a Motion to Strike Portions of Plaintiff's First Amended Complaint (ECF No. 19).

3 Plaintiff has the right to file the First Amended Complaint pursuant to the Federal
4 Rules of Civil Procedure. *See* Fed. R. Civ. P. 15(1)(b) ("A party may amend its
5 pleading once as a matter of course within . . . 21 days after serving it, or . . . if the
6 pleading is one to which a responsive pleading is required, 21 days after service of a
7 responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),
8 whichever is earlier."). Once filed, an amended complaint supersedes the original
9 complaint in its entirety. *See Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1008
10 (9th Cir. 2015). Defendants' four motions addressing the original Complaint became
11 moot once the First Amended Complaint was filed.

12 IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 5), Motion to
13 Strike (ECF No. 6), Amended Motion to Dismiss (ECF No. 12) and Amended Motion
14 to Strike (ECF No. 13) are DENIED as moot.

15 DATED: November 29, 2016

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17 **WILLIAM Q. HAYES**
18 United States District Judge
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